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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,370	02/05/2002	Cathleen Woodall	2858	4346

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 04/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/073,370

Applicant(s)

WOODALL ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 10 March 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “web 96” must be shown or the feature(s) canceled from the claim(s); the reference numeral “96” in figure 6 points to empty space. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lerman USPN3323151.

As to claim 1, Lerman discloses:

- A pair of generally flat pads 8/9 for supporting a user's buttocks.
- A hinged handle 16/21/22 disposed between the pads for carrying said seat cushion.
- Spaced apart arms 21/22, interconnecting the pads and said hinged handle for holding the pads in a spaced apart relationship and enabling grasping of said hinged handle by the user.

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- Said arms being flexible for enabling the pads to be oriented in both a planar relationship for supporting the user's buttocks and a parallel plane relationship for enabling transport of said seat cushion by the handle.

As to claim 2, Lerman discloses:

- Said hinged handle 16/21/22 and said arms 16 are recessed from a top of each of the pads 8/9 for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx. It is noted that the limitation "for...coccyx" is intended use.

As to claim 3, Lerman discloses:

- The pads 8/9, arms 16, and hinged handle 16/21/22 are integrally molded (col.3, ln.4-21).

As to claim 4, Lerman discloses:

- Said arms include forearms and aftarms each joined to opposite ends of said handle 16/21/22.

As to claim 5, Lerman discloses:

- Each of the pads 8/9 include an arcuate forward perimeter.
- The forward perimeters being joined by the forearms.

As to claim 6, Lerman discloses:

- Each of the pads 8/9 include an arcuate rearward perimeter.
- The rearward perimeter being joined by the aftarms.

As to claim 8, Lerman discloses:

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- A pair of generally flat pads 8/9 for supporting a user's buttocks. It should be noted that "for...buttocks" is intended use.
- The pads having mirror image perimeters.
- A single hinged handle 16/21/22 disposed between the pads for carrying said seat cushion.
- Spaced apart arms 21/22, interconnecting the pads and said hinged handle, for holding the pads in a spaced apart relationship and enabling grasping of said hinged handle by the user.
- The arms being flexible for enabling the pads to be oriented in both a planar relationship for supporting the user's buttocks and a parallel planar relationship for enabling transport of said seat cushion by the hinged handle.

As to claim 9, Lerman discloses:

- Said hinged handle 16/21/22 and arms 21/22 have a thickness smaller than a thickness of the pads 8/9 and are disposed between the pads 8/9 for enabling the user's coccyx to depend between the pads in order to prevent pressure on the coccyx. It should be noted that "for...coccyx" is intended use.

As to claim 10, Lerman discloses:

- The handle arms 16 and pads 8/9 each have a bottom surface disposed in a single plane with the pads 8/9 oriented for supporting the user's buttocks.

As to claim 11, Lerman discloses:

- The pads 8/9, arms 16, and hinged handle 16/21/22 are integrally molded (col.3, ln.4-21).

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As to claim 12, Lerman discloses:

- Said arms 16 include forearms and aftarms each joined to opposite ends of said hinged handle 16/21/22.

As to claim 13, Lerman discloses:

- Each of the pads 8/9 include an arcuate forward perimeter.
- The forward perimeters being joined by the forearms.

As to claim 14, Lerman discloses:

- Each of the pads 8/9 include an arcuate rearward perimeter.
- The rearward perimeters being joined by the aftarms.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lerman USPN3323151 in view of Skibik USPN5611098.

As to claim 7, Lerman fails to disclose or suggest:

- A means for releasably holding the pads in the parallel planar relationship.

Skibik discloses a means 26 for releasably holding the pads in the coplanar relationship (col.4, ln.1-9) to secure the cover members together in closed condition. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pads

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disclosed by Lerman to have holding means, as taught by Skibik, to secure the pads together in closed condition.

***Response to Arguments***

The drawing objections made in the previous detailed action mailed on 12/30/02 have been withdrawn in light of the cancellation of claims 15-23.

Applicant's arguments, see pg.9 5<sup>th</sup> full paragraph, filed 3/10/03, with respect to the rejection of claims 1-23 under 35 USC 112 2<sup>nd</sup> paragraph, have been fully considered and are persuasive. The rejection of claims 1-23 has been withdrawn, because applicant has removed the limitation "coplanar" and substituted "parallel plane".

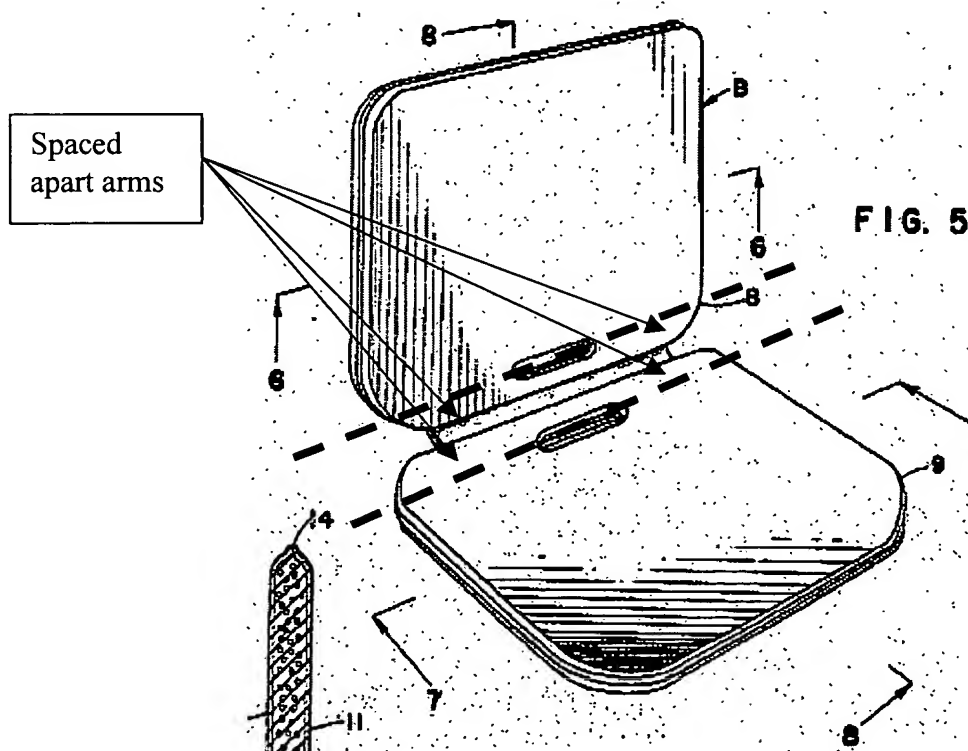
Applicant's arguments filed 3/10/03 have been fully considered but they are not persuasive.

As to the Lerman reference, applicant argues (pg.10-12) that "...there are no spaced apart arms interconnecting the handgrips 21/22 and the pads 8/9. Applicant is directed to modified Figure 5 which immediately follows this paragraph. The handle consists of the holes 17/18 and the handgrips (portions directly between the holes). The spaced apart arms are directly to the left and right of holes 17/18, and interconnect the pads 8/9 with one another. In modified Figure 5, the spaced apart arms are shown. Applicant also argues that "...the handgrips 21/22 as taught by Lerman do not constitute a single hinged handle. The examiner disagrees because the part 16 is a single hinged handle.

Applicant argues (pg.11) against the combination of Lerman in view of Skibik. Applicant states that "...Skibik does not provide any further teaching of a hinged handle with interconnecting spaced apart arms..." The Lerman reference discloses these limitations, with

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Skibik used only to modify the structure already disclosed by Lerman. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).



### Conclusion

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after



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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH  
April 14, 2003



WILLIAM MILLER  
Primary